

हक्रिस्की सं० डी-(डी) 72.

1982
REGISTERED No. D-(D)-72



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 2
PART II—Section 2

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 27] नई दिल्ली, शुक्रवार, जुलाई 9, 1982/जुलाई 18, 1904
No. 27] NEW DELHI, FRIDAY, JULY 9, 1982/ASADHA 18, 1904

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on 9th July, 1982:—

BILL No. 27 of 1982

*A Bill further to amend the Constitution of India
further to amend the Constitution of India.*

Be it enacted by Parliament in the Thirty-third Year of the Republic
of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1982. Short
title.
2. In article 75 of the Constitution, after clause (6), the following
clause shall be inserted, namely:— Amend-
ment of
article 75.

“(7) No person who is not an elected member of the House of
the People shall be appointed as the Minister of Finance.

Explanation.—Where any person who is not a member of the
House of the People has been appointed as the Minister of Finance,
before this Act came into force, he shall cease to be the Minister
of Finance immediately on this Act coming into force.”

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to give Constitutional protection to the healthy democratic convention that the Minister of Finance should be an elected member of the House of the People. The need to give this Constitutional protection arises in order to save the time-honoured convention from assault based on narrow legalistic views.

NEW DELHI;
February 23, 1982.

G. M. BANATWALLA

BILL No. 41 OF 1982***A Bill further to amend the Constitution of India.***

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1982.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. For article 338 of the Constitution, the following articles shall be substituted, namely:—

“338. (1) There shall be a Commission for the Scheduled Castes and Scheduled Tribes.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of such persons as the President may appoint and the conditions of service and tenure of office of the persons so appointed shall be such as the President may by rule determine.

Short
title
and
com-
mence-
ment.

Substi-
tution
of new
articles
for
article
338.

Commis-
sion for
Sche-
duled
Castes
and
Sche-
duled
Tribes.

(3) It shall be the duty of the Commission—

(a) to investigate all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under this Constitution and laws passed by the Union and State Governments;

(b) to undertake a review of the implementation of the policies pursued by the Union and the State Governments with respect to the Scheduled Castes and Scheduled Tribes;

(c) to look into specific complaints regarding deprivation of rights and safeguards of the Scheduled Castes and Scheduled Tribes;

(d) to conduct studies, research and analysis on the question of avoidance of discrimination and atrocities against Scheduled Castes and Scheduled Tribes;

(e) to suggest appropriate legal and welfare measures in respect of Scheduled Castes and Scheduled Tribes to be undertaken by the Union or the State Governments;

(f) to serve as a national clearance house for information in respect of the conditions of the Scheduled Castes and Scheduled Tribes;

(g) to submit to the President, annually or at such other times as the Commission may deem fit, reports upon the working of those safeguards;

(h) to make in such reports such recommendations as the Commission may deem fit as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards; and

(i) to discharge such other functions in relation to the protection and advancement of the Scheduled Castes and Scheduled Tribes as the President may by rule specify.

(4) The President shall cause all such reports to be laid before each House of Parliament, within three months of their receipt, along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any such recommendation.

(5) Where any such reports or any part thereof relates to any matters with which any State Government is concerned, a copy of such report, immediately on its receipt, shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State, within three months of its receipt by him, along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any such recommendation.

(6) For the purpose of holding any investigation, the Commission shall have the same status and powers as the Commission of Inquiry under the Commissions of Inquiry Act, 1962.

(7) The Union and the State Governments shall consult the Commission on all major policy matters affecting the Scheduled Castes and Scheduled Tribes.

(8) In this article, references to the Scheduled Castes and Scheduled Tribes shall be treated as including references to such other backward classes as the President may, on receipt of the report of a Commission appointed under clause (1) of article 340, by order specify.

338A. (1) There shall be a Commission for the minorities, other than linguistic minorities, to be known as the Minorities Commission.

Minorities
Commission.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of such persons as the President may appoint and the conditions of service and tenure of office of the persons so appointed shall be such as the President may by rule determine.

(3) It shall be the duty of the Commission—

(a) to investigate all matters relating to the safeguards provided for the minorities under this Constitution and laws passed by the Union and State Governments;

(b) to undertake a review of the implementation of the policies pursued by the Union and the State Governments with respect to the minorities;

(c) to look into specific complaints regarding deprivation of rights and safeguards of the minorities;

(d) to conduct studies, research and analysis on the question of avoidance of discrimination and atrocities against minorities;

(e) to serve as a national clearance house for information in respect of the conditions of the minorities;

(f) to submit to the President, annually or at such other times as the Commission may deem fit, reports upon the working of those safeguards;

(g) to make in such reports such recommendations as the Commission may deem fit as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards;

(h) to discharge such other functions in relation to the protection and advancement of the minorities as the President may by rule specify.

(4) The President shall cause all such reports to be laid before each House of Parliament, within three months of their receipt along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any such recommendation.

(5) Where any such report or any part thereof relates to any matter with which any State Government is concerned, a copy of such report, immediately on its receipt, shall be forwarded to the Governor of the State who shall cause it to be laid before the

Legislature of the State, within three months of its receipt by him, along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any such recommendation.

(6) For the purpose of holding any investigation, the Commission shall have the same status and powers as the Commission of Inquiry under the Commission of Inquiry Act, 1952.

60 of 1952.

(7) The Union and the State Government shall consult the Commission on all major policy matters affecting the minorities.

(8) In this article, references to minorities shall be treated as references to minorities other than linguistic minorities.”

Substitution
of new
article for
article
350B

3. For article 350B of the Constitution, the following article shall be substituted, namely:—

Linguistic
Minorities
Commission.

“350B. (1) There shall be a Commission for linguistic minorities to be known as the Linguistic Minorities Commission.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of such persons as the President may appoint and the conditions of service and tenure of office of the persons so appointed shall be such as the President may by rule determine.

(3) It shall be the duty of the Commission—

(a) to investigate all matters relating to the safeguards provided for the linguistic minorities under this Constitution and laws passed by the Union and State Governments;

(b) to undertake a review of the implementation of the policies pursued by the Union and the State Governments with respect to the linguistic minorities;

(c) to look into specific complaints regarding deprivation of rights and safeguards of the linguistic minorities;

(d) to conduct studies, research and analysis on the question of avoidance of discrimination and atrocities against linguistic minorities;

(e) to suggest appropriate measures in respect of any linguistic minority or any minority language to be undertaken by the Central or the State Governments;

(f) to serve as a national clearance house for information in respect of the conditions of the linguistic minorities;

(g) to submit to the President, annually or at such other times as the Commission may deem fit, reports upon the working of the safeguards;

(h) to make such recommendations as the Commission may deem fit as to the measures that should be taken by the Union or

any State for the effective implementation of those safeguards; and

(i) to discharge such other functions in relation to the protection and advancement of the linguistic minorities as the President may by rule specify.

(4) The President shall cause all such reports to be laid before each House of Parliament, within three months of their receipt, along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any such recommendation.

(5) Where any such report or any part thereof relates to any matter with which any State Government is concerned, a copy of such report, immediately on its receipt, shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State, within three months of its receipt by him, along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any such recommendation.

(6) For the purpose of holding any investigation, the Commission shall have the same status and powers as the Commission of Inquiry under the Commission of Inquiry Act, 1952.

(7) The Union and the State Governments shall consult the Commission on all major policy matters affecting the linguistic minorities."

STATEMENT OF OBJECTS AND REASONS

Article 338 of the Constitution provides that there shall be a Special Officer for the Scheduled Castes and Scheduled Tribes whose duty it shall be to investigate all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes and to report upon the working of those safeguards at prescribed intervals. However, considering the magnitude of the problem, it will inspire greater confidence if matters relating to the Scheduled Castes and Scheduled Tribes are entrusted to a Commission consisting of persons of eminence and status, instead of having one officer reporting on the safeguards.

Similarly, article 350B provides for a Special Officer for linguistic minorities. However, for reasons stated above, it would be expedient to provide for a Commission comprising persons of eminence and status.

Further, the Government have set up by an executive order a Commission to safeguard the interests of minorities. Such a Commission would, if set up in pursuance of constitutional provisions, inspire greater confidence among the minorities. This Minorities Commission shall investigate all matters relating to safeguards provided for minorities other than linguistic minorities and report upon the working of those safeguards at periodical intervals.

It is, therefore, proposed to amend the Constitution to substitute two new articles for article 338 and a new article for article 350B to provide for the aforementioned Commissions.

The Bill seeks to achieve the above objects.

NEW DELHI;
March 8, 1982

G. M. BANATWALLA

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to substitute for article 338 new articles 338 and 338A. Clause 3 seeks to substitute a new article for article 350B.

2. New article 338 provides for a Commission for the Scheduled Castes and Scheduled Tribes in place of the Special Officer for the Scheduled Castes and Scheduled Tribes. It is proposed to merge the existing organisation of the Commissioner for the Scheduled Castes and Scheduled Tribes with the proposed new Commission. Even so, the provisions of new article 338 will involve additional expenditure as the Commission will be a multi-member Commission. Further, it will be necessary to augment the strength of the existing organisation of the Commissioner for the Scheduled Castes and Scheduled Tribes. The details of the additional staff requirements and the organisational set up of the Commission for the Scheduled Castes and Scheduled Tribes would be settled after the Commission is set up. It is, therefore, not possible to give a precise estimate of the additional expenditure involved, at this stage. However, it may be estimated that the non-recurring expenditure which may be involved would be about rupees 4.3 lakhs and the recurring expenditure would be about rupees 5.7 lakhs per annum.

3. New article 338A provides for a Minorities Commission. Non-recurring expenditure is likely to be of the order of rupees 6.3 lakhs while the recurring expenditure is likely to be rupees 8.2 lakhs per annum.

4. New article 350B provides for a Linguistic Minorities Commission in place of the Special Officer for linguistic minorities. The provision is similar to the one contained in new article 338. Likewise, it can be estimated that the non-recurring expenditure would be about rupees 4.3 lakhs and the recurring expenditure would be about rupees 5.7 lakhs per annum.

5. The provisions of the Bill do not involve any other expenditure of a recurring or non-recurring nature.

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

Special
Officer
for Sched-
uled
Castes,
Sched-
uled
Tribes,
etc.

338. (1) There shall be a Special Officer for the Scheduled Castes and Scheduled Tribes to be appointed by the President.

(2) It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under this Constitution and report to the President upon the working of those safeguards at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament.

(3) In this article, references to the Scheduled Castes and Scheduled Tribes shall be construed as including references to such other backward classes as the President may, on receipt of the report of a Commission appointed under clause (1) of article 340, by order specify and also to the Anglo-Indian community.

* * * * *

Special
Officer
for
linguistic
minorities.

350B. (1) There shall be a Special Officer for linguistic minorities to be appointed by the President.

(2) It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for linguistic minorities under this Constitution and report to the President upon those matters at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament, and sent to the Governments of the States concerned.

BILL NO. 44 OF 1982

*A Bill to amend the Bombay Prevention of Begging Act, 1959, as
extended to the Union territory of Delhi.*

Be it enacted by Parliament in the Thirty-third Year of the Republic
of India as follows:—

1. This Act may be called the Bombay Prevention of Begging (Delhi
Amendment) Act, 1982. Short
title.

Bombay
Act 10 of
1959.

2. In section 2 of the Bombay Prevention of Begging Act, 1959, as
extended to the Union territory of Delhi (hereinafter referred to as the
principal Act), in sub-section (1), in clause (i),— Amend-
ment of
section 2.

(i) in sub-clause (a), the words "whether or not under any
pretence such as singing, dancing, fortune telling, performing, or
offering any article for sale" shall be omitted;

(ii) sub-clause (d) shall be omitted.

Insertion
of new
section
3A.

3. After section 3 of the principal Act, the following section shall be inserted, namely:—

Adequate
number
of Magis-
trates.

"3A. (1) There shall be appointed adequate number of Magistrates of the first class for the purpose of exercising powers and trying cases under this Act.

(2) The court of a Magistrate appointed under sub-section (1) shall conduct day to day inquiry against a person who is brought before it under this Act and in a case where it is not possible to hold the inquiry day to day, the reasons for the same shall be recorded in writing.

Amend-
ment of
section 5.

4. In section 5 of the principal Act,—

(i) in sub-section (2), the following proviso shall be inserted at the end namely:—

"Provided that the Court shall record the reasons for adjournment of inquiry every time;

Provided further that no person shall be remanded to custody for a period of more than 5 days.";

(ii) after sub-section (3), the following sub-sections shall be inserted, namely:—

"(3A) Where the person pleads that he was not begging and proves to the Court that he has the means of subsistence, the Court shall order that such person be released forthwith.";

(iii) in sub-section (4), the following provisos shall be inserted at the end, namely:—

"Provided that where the inquiry is held by the Court of a Magistrate of the first class, and the person is aggrieved against the finding of the Magistrate, he shall have the right to make an application, without payment of any court fee, to such Magistrate to forward his case in appeal to a Court of Session and on receipt of such an application the Magistrate shall forward the case with such application to the Court of Session:

Provided further that where such an application is forwarded to a Court of Session, such Court shall complete the inquiry within a period of 7 days from the date of filing the application in the court of the Magistrate aforesaid:

Provided further that the Court of Session shall not order the person to be remanded to a custody for a period of more than 5 days.";

(iv) in sub-section (5) for the words "not less than one year, but not more than three years", the words "not more than one year" shall be substituted.

5. Section 6 of the principal Act shall be omitted.

Omission
of section
6.

6. After section 7 of the principal Act, the following sections shall be inserted, namely:—

Insertion
of new
sections
7A and
7B.

“7A. Where a person, who is tried for an offence under this Act, pleads that he was not guilty of the offence and wants to contest the case, the Court shall provide him with adequate legal assistance free of any charge.

Legal
assistance
to persons
found
begging.

7B. The witness of a police officer alone against a person accused of begging or any offence under this Act shall not be taken as a conclusive evidence against such person and the Court shall not record a finding that the person is a beggar unless a person, who is a resident of or carries his profession or has place of his employment at or near the place where the person accused of begging has been found, appears as witness against such person and testifies in clear terms that the person accused of begging was, actually begging.”

Witness
of police
officer
not to be
con-
clusive
evidence
against a
person
found
begging.

7. In section 15 of the principal Act,—

(i) in sub-section (1), the following further proviso shall be inserted at the end, namely:—

Amend-
ment of
section
15.

“Provided further that five of the members of the Advisory Committee shall be appointed from amongst the persons who represent various social or charitable organisations engaged in the service of the poor, destitute or homeless persons.”;

(ii) in sub-section (2), the words, “and after due notice to the Superintendent” shall be omitted.

8. Section 20 of the principal Act shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The Bombay Prevention of Begging Act, 1959, as adapted and extended to the Union territory of Delhi, provides for prevention of begging; detention, training and employment of beggars; the custody, trial and punishment of beggars. It has been observed that instead of achieving these objectives, the enforcement of the provisions of the Act has proved to be a danger to the personal liberty of innocent and poor people. Though many of the persons accused of begging might be beggars, a surprisingly large number of them are those who are not beggars or were never caught actually begging. In fact, the definition of "begging", as given in the Act, is so sweeping that it has resulted in extreme harshness to the poor people.

"Begging", as defined in the Act, means soliciting or receiving alms in a public place whether or not under any pretence such as singing, dancing, fortune-telling, performing or offering any article for sale. The result is that the poor persons who earn their livelihood by performing these arts have been branded as beggars and are arrested by the police without warrant and sent to confinement in a Certified Institution. This definition ignores the fact that these "performers" have some background of training in singing, dancing or other performances. In fact the money which audience gives them is not alms but a return for the entertainment provided by the performer.

The harshness of the definition of "begging" is worsened by sub-clause (d) of clause (i) of section 2 under which any person not having a visible means of subsistence and wandering about in any public place can be deemed to exist by soliciting or receiving alms. In a country where seventy per cent. of the people live below poverty line and at least 12 million are recognised as unemployed, the number of persons who have no visible means of subsistence would be legion.

A more disturbing feature of the enforcement of this Act is that in almost all the cases of alleged begging, it is the police-man alone, who arrests the persons accused of begging, who testifies that the accused had solicited or received alms.

Another cause of harassment under this Act is the unconscionably long period between the arrest and the final disposal of a person accused of begging, and there is no excuse for it. The fact that the Court sits not oftner than once a week adds to the sufferings of a large number of the accused.

Another astonishing feature of the Act is the prescription of minimum or specific sentences under section 5 and 6. Under section 6(3), when a person is convicted for begging for the second or subsequent time, the Court shall order him to be detained for a period of ten years. If theft is punishable with simple imprisonment for three years or less and so

is rioting armed with a deadly weapon, there is some thing wrong with our system which demands that simple begging, asking a rich passer by for five paisa, be punished with detention for ten years—and this is a land where poverty is so harsh and so widespread.

It is time that we should review the provisions of this Act which ignore the stark reality of abysmal poverty prevailing in our country. It is necessary not only to remove these inhumane features of the Act but also to provide for free legal assistance to those who are accused of begging.

Hence this Bill.

NEW DELHI;
March 12, 1962.

CHITTA BASU

FINANCIAL MEMORANDUM

Clause 3 of the Bill which seeks to insert new section 3A provides for the appointment of adequate number of first class magistrates. Clause 6 of the Bill which seeks to insert new section 7A provides for free legal assistance to persons found begging but who plead not guilty of the offence. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees ten lakhs per annum. No non-recurring expenditure is likely to be incurred.

BILL NO. 45 OF 1982

A Bill further to amend the Delhi Rent Control Act, 1958.

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Delhi Rent Control (Amendment) Act, 1982. Short title and commencement.

(2) It shall come into force at once.

59 of 1958.

2. In the Delhi Rent Control Act, 1958 (hereinafter referred to as the principal Act), in section 14,— Amendment of section 14.

(a) in sub-section (1), clause (e) of the proviso shall be omitted;

(b) sub-section (6) shall be omitted;

(c) sub-section (7) shall be omitted.

3. In section 14A of the principal Act, in sub-section (1), after the existing proviso, the following further proviso shall be inserted, namely:— Amendment of section 14A.

“Provided further that the premises sought to be recovered are required *bona fide* by the landlord for occupation as a residence for himself or for any member of his family dependent on him.”

Insertion
of new
section
14B.

Right to
recover
possession
for bona
fide re-
quirement.

4. After section 14A of the principal Act, the following section be inserted, namely:—

“14B. (1) Notwithstanding anything contained in this Act, a landlord shall be entitled to recover possession of any premises if the Court is satisfied that the premises are reasonably and *bona fide* required by the landlord for occupation as a residence for himself or for any person for whose benefit the premises are held or, where the landlord is a trustee of a public charitable trust, that the premises are required for occupation for the purposes of the trust.

(2) No decree for eviction shall be passed under sub-section (1) if the Court is satisfied that, having regard to all the circumstances of the case including the question whether other reasonable accommodation is available for the landlord or the tenant, greater hardship would be caused by passing the decree than by refusing to pass it:

Provided that where the Court is satisfied that no hardship would be caused either to the tenant or to the landlord by passing the decree in respect of a part of the premises, the Court shall pass the decree in respect of such part only.

Explanation: For the purpose of this section, the expression “landlord” shall not include a rent-farmer or rent-collector.”

Amend-
ment of
section
25B.

5. In section 25B of the principal Act, in sub-section (1), the words “on the ground specified in clause (e) of the proviso to sub-section (1) of section 14, or” shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The Delhi Rent Control Act, 1958 was enacted to provide, *inter alia*, for protection to tenants against eviction. Nevertheless, section 25B provides for just a summary trial for the disposal of applications for eviction on the ground that the premises are required *bona fide* by the landlord for occupation as a residence for himself or for any member of his family. The provision for summary eviction has led to extensive misuse and abuse of the right by landlords. It is, therefore, considered expedient to extend to the tenant protection against summary eviction, and to bring the provisions of the Delhi Rent Control Act, 1958 in conformity with those in the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 in this respect.

2. Incidentally, opportunity has been taken to clarify that the right under section 14 of the Delhi Rent Control Act, 1958 to recover immediate possession shall be subject to the premises being required *bona fide* by landlord for occupation as a residence for himself or for any member of his family dependent on him.

3. The Bill seeks to achieve the above objects.

NEW DELHI;
March 12, 1962.

G. M. BANATWALLA

BILL No. 71 of 1982

A Bill to provide for capital punishment for sabotage in essential services and for hijacking of aeroplanes.

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Capital Punishment (for Sabotage and Hijacking) Act, 1982.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act,—

'(a) "essential service" means a service as defined in clause (a) of sub-section (1) of section 2 of the Essential Services Maintenance Act, 1981 and includes all those services which are related to railways and defence installations;

(b) "sabotage" means an act or wilful omission committed with an intention of reducing the utility or retarding or endangering an essential service and includes an act or omission perpetrated towards that end, whether the offence is completed or not.

Short
title,
extent
and
com-
mence-
ment.

Defini-
tions.

Punish-
ment for
sabotage
or
hijack-
ing.

3. Whoever commits sabotage in an essential service or commits hijacking of an aeroplane shall be punished with death and his entire property shall also be liable to confiscation.

Appeal.

4. No appeal for an offence committed under this Act shall be entertained in any court in the country except by a panel of judges constituted by the Government for the purpose, which shall consist of the following, namely:—

(a) the Chief Justice of India who shall be the Chairman of the Panel;

(b) Chief Justices of two High Courts who shall be nominated on the Panel by the Chief Justice of India.

STATEMENT OF OBJECTS AND REASONS

It has been found that the rate of sabotages in railways, aeroplanes and other defence installations has been increasing for the last one year. Many inquiry reports of railways have revealed that major rail accidents in the country have taken place because of the sabotages. The law at present is not sufficient to deal with such cases and this has failed to check the increasing number of cases of sabotages in the country. The proposed law, if enacted, will act as a deterrent to persons indulging in sabotages of essential services and hijacking of aeroplanes. It has also been found that cases of hijacking of aeroplanes for the last so many years are also increasing and there is no law at present under which such cases can be dealt with. It is, therefore, necessary to enact a legislation for checking this inhuman crime.

Hence this Bill.

NEW DELHI;
March 20, 1962.

B. V. DESAI

BILL No. 74 OF 1982

A Bill to provide for special educational facilities to children of parents contracting inter-caste or inter-religion marriage

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows :—

1. (1) This Act may be called the Special Educational Facilities (for Children of Inter-caste or Inter-religion Married Parents) Act, 1982.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. The children born of parents who have contracted inter-caste or inter-religion marriage shall be provided free education from school level to the post-Graduate level and also in higher technical institutions.

Free educa-
tion to
children of
inter-
casts
or inter
religion
married
parents.

Reserva-
tion of
seats in
educational
institutions.

3. Seats up to a certain percentage shall be reserved in medical, engineering and other higher technical institutions and in post-Graduate courses for children born of parents who have contracted inter-caste or inter-religion marriage.

Rules.

4. The Central Government shall make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

To promote national integration and to establish a classless and creedless society is one of the basic aims of our Constitution. However, when some persons, men and women, venture to contract inter-caste or inter-religion marriage, such marriages are looked down upon by the society. Sometimes such persons are turned out of their family circles and they are subjected to all sorts of privations. Needless to say the children born of such wedlocks also become victims of such social estrangement.

It is, therefore, necessary that the Government should give some incentives to promote inter-caste and inter-religion marriages through the provision of free educational facilities and by fixing certain quota of reservation in educational institutions to children of such parents.

Hence this Bill.

NEW DELHI;

VIDYA CHENNUPATI

April 7, 1982.

FINANCIAL MEMORANDUM

Clause 2 of the Bill envisages free education at all levels to children of parents contracting inter-caste or inter-religion marriage. This will involve a recurring expenditure of rupees one crore per year from the Consolidated Fund of India.

No non-recurring expenditure is involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill provides that the Central Government shall make rules for carrying out the purposes of the Act. These rules will relate to matters of detail only. The delegation of legislative power is of a normal character.

BILL NO. 59 OF 1982

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1982.

Short
title.

2. After Part X of the Constitution, the following Part shall be inserted, namely:—

Insertion
of new
part
XA.

“PART XA

SPECIAL PROVISIONS RELATING TO HILL AREAS OF DISTRICT OF
DARJEELING

244B. In this part, unless the context otherwise requires,—

Defin-
tions

(a) “District Council” means Council constituted under article 244C;

(b) “Council” means the District Council;

(c) “Official Gazette” means the Gazette published by the Govern-
ment of West Bengal;

- (d) "Government" means Government of West Bengal;
- (e) "Fund" means the District Fund constituted under article 244G;
- (f) "Member" means Member of the District Council;
- (g) "Autonomous Region" means the territory comprising the area, specified in article 244C.

Formation of an autonomous region comprising certain areas of Darjeeling and other Nepali speaking areas in West Bengal and creation of a District Council.

244C. Notwithstanding anything contained in this Constitution, Parliament may, by law, form within the State of West Bengal, an autonomous region comprising such areas, as may be specified, of the District of Darjeeling and neighbouring Districts where the Nepali speaking people are in majority and create for the administration of such region a District Council to be constituted in a manner specified under article 244D and with powers and functions as may be specified by law made under article 244E.

Manner of constitution of District Council.

244D. (1) The District Council shall be a body corporate by the name of Autonomous District Council (Darjeeling) and shall have perpetual succession and a common seal with power to acquire, hold and dispose of property and may by the said name sue and be sued.

(2) The Council shall consist of not more than fifty members out of whom such number of members shall be elected on the basis of adult suffrage as may be specified by the law made by the West Bengal State Legislature in that behalf:

Provided that members of West Bengal Legislative Assembly and the Member or Members of Lok Sabha for the time being representing the autonomous region or part thereof or such Member or Members of Rajya Sabha as may be nominated by the Government of West Bengal, shall be *ex-officio* Members of the District Council:

Provided further that seat shall be reserved in the District Council for the Scheduled Castes, Scheduled Tribes and the Linguistic Minorities in the region as may be specified by the State Government by an order notified in the Official Gazette.

(3) The constituencies for election to the District Council shall be territorial and the State Government shall by order notified in the Official Gazette, determine the territorial limit of the constituencies into which the autonomous region shall be delimited for the purpose of election of the Members to the District Council and, in such notification, shall specify the constituencies to be reserved for Scheduled Castes, Scheduled Tribes and Linguistic Minorities.

(4) The State Government may, by order notified in the Official Gazette, provide for—

- (a) qualification for membership of District Council;
- (b) disqualification for membership of the District Council;
- (c) preparation of the electoral rolls of the constituencies;

(d) all matters in relation to or in connection with the holding of elections to and due composition of the District Council including the term thereof and in particular may provide for all or any of the following matters:—

- (i) appointment of Chairman, Vice-Chairman and other office bearers of the District Council out of the members thereof;
- (ii) formation of the Executive Committee of the District Council out of the members thereof;
- (iii) salaries and allowances of the Chairman, Vice-Chairman and the members;
- (iv) conduct of executive functions;
- (v) powers of the Executive Committee; and
- (vi) such other matters necessary for and incidental to the functioning of the District Council.

(5) Every member of the District Council shall before taking his seat make and subscribe before such person or persons as may be appointed by the Government in that behalf oath or affirmation according to the form prescribed by the Government for the purpose.

244E. (1) Subject to any laws made or to be made by Parliament or by the West Bengal State Legislature applicable to the autonomous region, the District Council shall have powers to make laws with respect to—

Power of
District
Council
to make
laws.

(i) the allotment, occupation or use or the setting apart, of land, other than any land which is a reserved forest, for the purposes of agriculture or grazing or for residential or other non-agricultural purposes or for any other purpose likely to promote the interests of the inhabitants of any village or town;

Provided that nothing in such laws shall prevent the compulsory acquisition of any land, whether occupied or unoccupied, for public purposes by the Government in accordance with the laws for the time being in force authorising such acquisition;

- (ii) the management of any forest not being a reserved forest;
- (iii) the use of any canal or water-course for the purpose of agriculture;
- (iv) the establishment of village or town committees or councils and their powers;
- (v) any other matter relating to village or town administration, including village or town police and public health and sanitation;
- (vi) the inheritance of property;

- (vii) marriage and divorce;
- (viii) land;
- (ix) land revenue;
- (x) agriculture;
- (xi) public health and sanitation, hospital and dispensaries;
- (xii) social customs and inheritance of properties;
- (xiii) customary laws;
- (xiv) tourism;
- (xv) employment;
- (xvi) public works—development and planning;
- (xvii) transport and communication;
- (xviii) relief of the disabled and unemployed;
- (xix) burials and burial grounds, cremations and cremation grounds;
- (xx) preservation, protection and improvement of live-stock and prevention of animal diseases, veterinary training and practice;
- (xxi) ponds and the prevention of cattle trespass;
- (xxii) water, that is to say, water supplied, irrigation and canals, drainage and embankments, water storage and water power;
- (xxiii) protection of wild animals and birds;
- (xxiv) fisheries;
- (xxv) production, supply and distribution of goods;
- (xxvi) markets and fairs;
- (xxvii) money-lending and money-lenders, relief of agricultural indebtedness;
- (xxviii) inns and inn-keepers; including hostels of all kinds;
- (xxix) theatres and dramatic performances; cinemas, sports entertainments and amusements;
- (xxx) betting and gambling;
- (xxxi) works, lands and building vested in or in the possession of the District Council;
- (xxxii) district public services, district Public Service Commission;
- (xxxiii) taxes on the entry of goods into a local area for consumption, use or sale therein;
- (xxxiv) taxes on the consumption or sale of electricity;
- (xxxv) taxes on advertisements other than advertisements published in the newspapers;
- (xxxvi) taxes on goods and passengers carried by road;
- (xxxvii) taxes on animals and boats;

(xxxviii) tools;

(xxxix) taxes on professions, trades, callings and employments.

18 of 1927.

(2) In this article a reserved forest means an area which is a reserved forest within the meaning of the Indian Forest Act, 1927.

(3) All laws made under this article shall come into effect upon their publication in the official Gazette:

Provided that the Central Government may with regard to any law made or to be made by Parliament or State Government in respect of laws made or to be made by the West Bengal State Legislature may by order notified in the Gazette of India or Official Gazette, as the case may be, provide that any such law or laws shall not apply to the Autonomous Region.

Explanation.—Law in this article includes any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having the force of law.

244F. (1) The Government may, by notified order, constitute a court or courts within the Autonomous Region to the exclusion of any court having jurisdiction over such area and may appoint, in consultation with the Chairman and failing him the Vice-Chairman of the District Council, suitable person or persons to be members or presiding officers of such courts as may be necessary for the purpose of administration of justice in the Autonomous Region. Adminis-
tration of
justice in
Autono-
mous
Region.

(2) The court or courts so constituted shall have power to try all suits and proceedings of such description and of such value as may be determined by the Government and notified in the Official Gazette.

(3) An appeal shall lie to the High Court at Calcutta from any final decision rendered by such court or courts and for the said purpose the State Government shall have power to frame rules in consultation with the Chairman and failing him the Vice-Chairman of the District Council which shall be notified in the Official Gazette.

244G. (1) There shall be constituted for the Autonomous Region, a District Fund to which shall be credited all moneys received by the District Council in course of administration of such Autonomous Region. District
Fund.

(2) The Government may make rules for the management of the District Fund and for the procedure to be followed in respect of payment of money into the said Fund, withdrawal of moneys therefrom, the custody of moneys therein and any other matter connected with and ancillary to the matters aforesaid.

(3) The accounts of the District Council shall be kept in such form as may be prescribed by the Government in consultation with the Accountant General of West Bengal.

(4) The State Government shall cause the accounts of the District Council to be audited by the Accountant General of West Bengal in such manner as he may think fit and the report of the Accountant General shall be submitted to the Government, after such report has been placed before the District Council and discussed, and the Government shall, in turn, lay such report before the State Legislature.

Prop-
ties
situat-
ed in
Auto-
nomous
Region
to vest in
District
Council

244H. Subject to such restrictions or conditions as the State Government may think fit and proper, all properties of the nature specified below and situated in the Autonomous Region shall vest in and belong to the District Council with all other properties which may become vested in the Council and shall be under the direction, management and control of the District Council and shall be held and applied for the purpose of this Act,—

(a) all public buildings, constructed and maintained out of the fund of the District Council;

(b) all public roads which have been constructed or maintained out of the fund of the District Council and the stones and other materials thereof and also trees, erections, materials, implements and things provided for such roads;

(c) all land or other properties movable or immovable, transferred to the District Council by the Government."

STATEMENT OF OBJECTS AND REASONS

Since prior to the independence of the country and even after the independence, the people of Darjeeling District in the State of West Bengal and in particular the Nepali speaking people of the district, who have contributed substantially in the overall development and advance of the country, have a feeling of being kept out of the mainstream of national development. The alien rulers for their own interests kept such people educationally, culturally, economically and politically backward and they have felt, for decades, to have been cut off from the national mainstream. There has been a persistent demand for their fuller and greater participation in the process of national development consistent with their separate identity and development of their own economic, political and cultural life in consonance with their specific aptitude and characteristics unitedly with the people of West Bengal and other parts of the country. It is well known that since the period of Morley-Minto Reforms, the people of the area have been demanding autonomy which was reiterated time and again. They represented their case for autonomy before the Simon Commission and after independence they made their demand for autonomy within the State of West Bengal before the then Prime Minister of India Pandit Jawaharlal Nehru in April 1952. The demand was made not only by the Nepali speaking people, but also by all political parties which included Darjeeling District Committee of Indian National Congress, Gorakha League, Communist Party of India, Bhutia and Lepcha Associations, different Bar Associations and Organisations of the Bengalee Community. They further represented their case before the State Re-organisation Committee when it visited Darjeeling in 1955.

The alien rulers were insensitive to the claims, urges and aspirations of the people of the area and, unfortunately, even after independence, their reasonable demand has not been considered favourably. This has created deep rooted frustration amongst the people, which is being exploited by the reactionary and vested interests resulting in raising demands of asking for a separate State in the name of 'Gorkha Land'. Such demand is being exploited by interested and designing persons and parties and will result in disintegration of the country.

To harness the patriotic urge of the Nepali speaking people in the process of national integration and development of the country, in which the Nepali speaking people have made significant and gallant contribution with their loyal and devoted service, such people should be drawn into the mainstream of national development and progress by providing opportunities to them to participate in the administration and in development activities and instilling in them a sense of belonging and involvement. This can only be achieved by granting the people of the area regional autonomy in the compact areas of three hill sub-divisions of the Darjeeling district and the contiguous areas where the Nepali speaking people are in majority, within the State of West Bengal.

Hence this Bill.

NEW DELHI;
April 8, 1982.

ANANDA PATHAK

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill empowers the State Government to provide, by order notified in the Official Gazette, for membership of the District Council, and all matters in connection with the holding of elections to the Council and other matters relating to the functioning of the Council (Article 244D); prescribe the form of oath or affirmation to be subscribed before taking seat in the Council (Art. 244D); and make rules for the management of the District Fund and to prescribe the form in which the accounts of the Council shall be kept (Art. 244G). Since these are matters of detail only and cannot be provided in the Bill itself, the delegation of legislative power is of a normal character.

BILL No. 76 of 1982

A Bill to provide for the appointment of a Lokpal to inquire into allegations of corruption against public persons and for matters connected therewith.

Enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Lokpal Act, 1982.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short
title, ex-
tent and
com-
mence-
ment.

2. (1) In this Act, unless the context otherwise requires,—

(a) "competent authority", in relation to a complaint against a public person means the competent authority in relation to such

Defini-
tions.

complaint determined in accordance with the provisions of sub-section (2) and the rules made thereunder;

(b) "complaint" means a complaint alleging that a public person has, while holding any of the offices referred to in clause (f), been guilty of corruption;

(c) "corruption" means and includes—

(i) any act punishable under Chapter IX of the Indian Penal Code or the Prevention of Corruption Act, 1947;

45 of 1860.
2 of 1947.

(ii) abetment of any of the acts mentioned in sub-clause (i);

(iii) intentional concealment of acts mentioned in sub-clauses (i) and (ii) by any other public person; and

(iv) any conduct which in the opinion of the Lokpal does not conform to the standards of fairness or integrity reasonably expected of the public person concerned in his character as a public person;

Explanation.—Acts amounting to corruption shall include such acts, whether committed before or after the coming into force of this Act and whether committed within or without India.

(d) "Lokpal" means a person appointed under section 3 as the Lokpal and, where a Special Lokpal is appointed under section 7 for exercising jurisdiction in relation to any complaints or any class of complaints, includes, for the purpose of such complaints or classes of complaints, such Special Lokpal;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "public person" means a person who holds or has held the office of—

(i) a member (including a Minister of State or a Deputy Minister) of the Council of Ministers for the Union;

(ii) a member of either House of Parliament;

(iii) a member (including a Minister of State or a Deputy Minister) of the Council of Ministers for a Union territory;

(iv) a member of the Legislative Assembly for any Union territory;

(v) a member of the Executive Council under the Delhi Administration Act, 1966;

(vi) the Mayor of a Municipal Corporation in any Union territory;

(vii) "public servant" shall have the same meaning as in section 21 of the Indian Penal Code.

(2) The competent authority in relation to a complaint under this Act shall be determined in accordance with the provisions of the Table below

with reference to the office held by the public person against whom such complaint is made at the time of the corruption alleged.

THE TABLE

Sl. No.	Office	Competent authority
1.	Prime Minister	The speaker of the House of the People.
2.	Any other Member (including a Minister of State or a Deputy Minister) of the Council of Ministers for the Union	The Prime Minister.
3.	Member of Parliament who is not a Member of the Council of Ministers for the Union.	The Chairman of the Council of States in the case of a Member of that Council or the Speaker of the House of the People in the case of a Member of that House and, where the complaint is against such Speaker, the Deputy Speaker of the House of the People.
4.	Member of the Legislative Assembly for any Union territory who is not a Member of the Council of Ministers for the Union territory.	The Speaker of the Legislative Assembly and where the complaint is against such Speaker, the Deputy Speaker of the Legislative Assembly.
5.	Any other office.	Such authority as may be prescribed.

3. (1) For the purpose of making inquiries into a complaint, the President shall, after consultation with the Chief Justice of India, the Chairman of the Council of States and the Speaker of the House of the People, appoint, by warrant under his hand and seal, a person to be known as the Lokpal:

Appoint-
ment of
Lokpal.

Provided that, before expressing his views, the Chairman of the Council of States or the Speaker of the House of the People may consult the leaders of the various Parties and Groups in the Council of States or, as the case may be, the House of the People.

(2) Every person appointed as the Lokpal shall, before entering upon his office, make and subscribe before the President, or some person appointed in that behalf by the President, an oath or affirmation in the form set out in the Schedule.

4. The Lokpal shall not be a Member of Parliament or a Member of the Legislature of any State and shall not hold any office of trust or profit (other than his office as Lokpal), or be connected with any political party, or carry on any business, or practise any profession, and accordingly, before he enters upon his office, a person appointed as the Lokpal shall,—

Lokpal
to be
ineligible
to hold
other
offices.

(a) if he is a Member of Parliament or of the Legislature of any State, resign such membership; or

(b) if he holds any office of trust or profit, resign from such office;
or

(c) if he is connected with any political party, sever his connection with it; or

(d) if he is carrying on any business, sever his connection (short of divesting himself of ownership) with the conduct and management of such business; or

(e) if he is practising any profession, cease to practise such profession.

Term of office and other conditions of service of Lokpal.

5. (1) A person appointed as the Lokpal shall hold office for a term of five years from the date on which he enters upon his office:

Provided that—

(a) the Lokpal may, by writing under his hand addressed to the President, resign his office;

(b) the Lokpal may be removed from his office in the manner provided in section 6.

(2) On ceasing to hold office, the Lokpal shall be ineligible for further employment to any office of profit under the Government of India or the Government of a State.

(3) There shall be paid to the Lokpal in respect of time spent on actual service salary at the rate of five thousand rupees per mensem.

(4) The Lokpal shall be entitled without payment of rent to the use of an official residence.

(5) The allowances and pension payable to, and other conditions of service of, the Lokpal to, shall be such as may be determined by the President having regard to the allowances and pension payable to, and other conditions of service of, the Chief Justice of India:

Provided that the allowances and pension payable to, and other conditions of service of, the Lokpal shall not be varied to his disadvantage after his appointment.

Removal of Lokpal.

6. (1) The Lokpal shall not be removed from his office except by an order of the President passed after an address by each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than two-thirds of the Members of that House present and voting has been presented to the President in the same session for such removal on the ground of proved misbehaviour or incapacity.

(2) The procedure for the presentation of an address and for the investigation and proof of the misbehaviour or incapacity of the Lokpal under sub-section (1) shall be as provided in the Judges (Inquiry) Act, 1968, in relation to the removal of a Judge and, accordingly, the provisions of that Act shall, subject to necessary modifications, apply in relation to the removal of the Lokpal as they apply in relation to the removal of a Judge.

51 of 1968.

Special Lokpals.

7. (1) Notwithstanding anything contained in section 3, if the President is satisfied on a report from the Lokpal that it is necessary so to do for the expeditious disposal of complaints under this Act, he may,

after consultation with the Chief Justice of India, the Chairman of the Council of States and the Speaker of the House of the People, appoint, by warrant under his hand and seal, one or more persons to be a Special Lokpal or Special Lokpals for exercising jurisdiction in relation to such complaints or such classes of complaints under this Act as may be specified in the warrant:

Provided that, before expressing his views, the Chairman of the Council of States or the Speaker of the House of the People may consult the leaders of the various Parties and Groups in the Council of States or as the case may be, the House of the People.

(2) A special Lokpal shall hold office for such term as may be specified in the warrant of his appointment.

(3) Save as otherwise expressly provided in this Act, the provisions of this Act relating to the Lokpal, including the provisions relating to the oath or affirmation to be made by the Lokpal, the ineligibility of the Lokpal to hold other offices, the conditions of service of the Lokpal and removal of the Lokpal, the functions, powers and duties of the Lokpal, shall apply in relation to a Special Lokpal as they apply in relation to the Lokpal but nothing in this sub-section shall be construed to enable a Special Lokpal to exercise jurisdiction in relation to any complaint or class of complaints not specified in the warrant by which he was appointed.

8. (1) The Lokpal shall appoint a Secretary and such other officers and employees as may be prescribed to assist him in the discharge of his functions (including verification and inquiries in respect of complaints) under this Act. Staff of Lokpal.

(2) Without prejudice to the provisions of sub-section (1), the Lokpal may for the purpose of dealing with any complaints or any classes of complaints, secure—

(i) the services of any officer or employee or investigating agency of the Central Government or a State Government with the concurrence of that Government; or

(ii) the services of any other person or agency.

(3) The Terms and conditions of service of the officers and employees referred to in sub-section (1) and of the officers, employees, agencies and persons referred to in sub-section (2) (including such special conditions as may be considered necessary for enabling them to act without fear in the discharge of their functions) shall be such as may be prescribed in consultation with the Lokpal.

(4) In the discharge of their functions under this Act, the officers and employees referred to in sub-section (1) and the officers, employees, agencies and persons referred to in sub-section (2) shall be subject to the exclusive administrative control and direction of the Lokpal.

(5) The officers and employees referred to in sub-section (1) and the officers, employees, agencies and persons referred to in sub-section (2) shall also assist the Special Lokpals (if any) in the discharge of their functions.

CHAPTER II

JURISDICTION AND PROCEDURE IN RESPECT OF INQUIRIES

Jurisdic-
tion of
Lokpal.

9. (1) Subject to the other provisions of this Act, the Lokpal may inquire into any matter involved in, or arising from, or connected with the corruption alleged in a complaint under this Act.

(2) The Lokpal may inquire into any act or conduct of any person other than a public person in so far as he considers it necessary so to do for the purpose of his inquiry into corruption alleged against the public person:

Provided that the Lokpal shall give such person a reasonable opportunity of being heard and to produce evidence in his defence.

(3) No matter in respect of which a complaint may be made under this Act shall be referred for inquiry under the Commissions of Inquiry Act, 1952, except on the recommendation of or with the concurrence of the Lokpal.

60 of 1952.

Matters
not sub-
ject to
jurisdic-
tion of
Lokpal.

10. (1) The Lokpal shall not inquire into any matter concerning any person if he has any bias in respect of such matter or person and if any dispute arises in this behalf, the President shall, on an application made by the party aggrieved obtain, in such manner as may be prescribed, the opinion of the Chief Justice of India and decide the dispute in conformity with such opinion.

(2) The Lokpal shall not inquire into any matter which has been referred for inquiry under the Commissions of Inquiry Act, 1952, on his recommendation or with his concurrence.

60 of 1952.

(3) The Lokpal shall not inquire into any allegation of corruption against a public person if the complaint in respect thereof is made after the expiry of five years from the date on which the corruption is alleged to have been committed:

Provided that the Lokpal may entertain such a complaint if the complainant satisfies him that he had sufficient cause for not making the complaint within the said period of five years.

Com-
plaints.

11. (1) Any person may make a complaint to the Lokpal.

(2) (a) Every complaint shall be in the prescribed form and shall set forth particulars of the corruption alleged and shall be supported by affidavit.

(b) The Lokpal may inquire into any complaint notwithstanding any non-compliance with clause (a).

(3) Notwithstanding anything contained in any other enactment, it shall be the duty of a police officer or other person in charge of any jail or other place of custody or of any asylum or other place for insane persons to forward, without opening, any letter, addressed to the Lokpal or the appropriate authority by a person imprisoned or detained in such jail, place of custody, asylum or other place, to the Lokpal or the appropriate authority without delay.

12. (1) If the Lokpal is satisfied, after considering a complaint and after making such verification as he deems appropriate,—

Preliminary scrutiny of complaints by Lokpal

(a) that the complaint is not made within the period of five years specified in sub-section (3) of section 10 and that there is no sufficient cause for entertaining the complaint; or

(b) that he cannot make an inquiry in respect of the complaint by reason of the provisions of sub-section (1) or (2) of section 10, or

(c) that the complaint is frivolous or vexatious or is not made in good faith; or

(d) that there are no sufficient grounds for inquiring into the complaint,

the Lokpal shall dismiss the complaint after recording his reasons therefor and communicate the same to the complainant and to the competent authority concerned.

(2) The procedure for verification in respect of a complaint under sub-section (1) shall be such as the Lokpal deems appropriate in the circumstances of the case and in particular the Lokpal may, if he deems it necessary so to do, call for the comments of the public person concerned.

13. (1) If, after the consideration and verification under section 12, the Lokpal decides to conduct an inquiry, he—

Procedure in respect of inquiries.

(a) shall forthwith forward a copy of the complaint to the competent authority concerned;

(b) may make such orders as to the safe custody of documents relevant to the inquiry as he deems fit;

(c) shall, at such time as he considers appropriate, forward a copy of the complaint to the public person concerned and afford him an opportunity to represent his case.

(2) Every such inquiry shall, unless the Lokpal, for reasons to be recorded in writing, determines otherwise, be conducted in public.

(3) Save as aforesaid, the procedure for conducting the inquiry shall be such as the Lokpal considers appropriate in the circumstances of the case.

14. (1) Subject to the provisions of this section, for the purpose of any inquiry (including the verification under section 12) the Lokpal—

Evidence.

(a) may require any public servant or any other person, who in his opinion is able to furnish information or produce documents relevant to such inquiry, to furnish any such information or produce any such document;

(b) shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

(i) summoning and enforcing the attendance of any person and examining him on oath;

- (ii) requiring the discovery and production of any document;
- (iii) receiving evidence on affidavits;
- (iv) requisitioning any public record or copy thereof from any court or office;
- (v) issuing commissions for the examination of witnesses or documents; and
- (vi) such other matters as may be prescribed.

(2) A proceeding before the Lokpal shall be deemed to be a judicial proceeding within the meaning of section 193 of the Indian Penal Code.

45 of 1860.

(3) Subject to the provisions of sub-section (4),—

(a) no obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to Government or any public servant, whether imposed by any enactment or by any provision of law whatever, shall apply to the disclosure of information for the purposes of any inquiry including the verification under section 12 under this Act; and

(b) the Government or any public servant shall not be entitled, in relation to any such verification or inquiry, to any such privilege in respect of the production of documents or the giving of evidence as is allowed by any enactment or by any provision of law whatever in legal proceedings.

(4) No person shall be required to furnish any such information or answer any such question or produce so such of any document as might prejudice the security or defence of India:

Provided that the Lokpal may require any information or answer or portion of a document in respect of which a certificate is issued under this sub-section to the effect that it is of the nature specified in this sub-section to be disclosed to him in private for scrutiny and if on such scrutiny the Lokpal is satisfied that such certificate ought not to have been issued, he shall declare the certificate to be of no effect.

Search
and
seizure.

15. (1) If the Lokpal has reason to believe that any documents which, in his opinion, will be useful for, or relevant to any inquiry under this Act, are secreted in any place, he may authorise any officer subordinate to him, or any officer of an investigating agency referred to in sub-section (2) of section 8, to search for and to seize such documents.

(2) If the Lokpal is satisfied that any document seized, under sub-section (1) would be evidence for the purpose of any inquiry under this Act and that it would be necessary to retain the document in his custody, he may so retain the said document till the completion of such inquiry:

Provided that where such document is seized before the commencement of such inquiry, the Lokpal shall return the document before the expiration of a period of one year from the date on which it is seized unless such inquiry has been commenced before such expiration.

Explanation.—For the purposes of this sub-section, an inquiry in respect of a complaint—

(a) shall be deemed to have commenced on the date on which the Lokpal forwards a copy of the complaint to the competent authority concerned under clause (a) of sub-section (1) of section 13;

(b) shall be deemed to have been completed on the date on which the Lokpal closes the case under section 16.

2 of 1974.

(3) The provisions of the Code of Criminal Procedure, 1973 relating to searches shall, so far as may be, apply to searches under this section subject to the modification that sub-section (5) of section 165 of the said Code shall have effect as if for the word "Magistrate", wherever it occurs, the words "Lokpal or any officer authorised by him" were substituted.

16. (1) If, after inquiry in respect of a complaint, the Lokpal is **Reports,** satisfied,—

(a) that no allegation made in the complaint has been substantiated either wholly or partly, he shall close the case and intimate the complainant, the public man and the competent authority concerned accordingly;

(b) that all or any of the allegations made in the complaint have or has been substantiated either wholly or partly, he shall, by report in writing, communicate his findings and recommendations to the competent authority and intimate the complainant and the public person concerned about his having made the report.

(2) The competent authority shall examine the report forwarded to it under clause (b) of sub-section (1) and communicate to the Lokpal within three months of the date of receipt of the report, the action taken or proposed to be taken on the basis of the report.

(3) If the Lokpal is satisfied with the action taken, or proposed to be taken, on the basis of his report under clause (b) of sub-section (1), he shall close the case and intimate the complainant, the public person and the competent authority concerned accordingly. but where he is not so satisfied and if he considers that the case so deserves he may make a special report upon the case to the President and intimate the complainant, the public person and the competent authority concerned about his having made such report.

(4) The Lokpal shall present annually to the President a consolidated report on the administration of this Act.

(5) As soon as may be after, and in any case not later than ninety days from, the receipt of a special report under sub-section (3), or the annual report under sub-section (4), the President shall cause the same together with an explanatory memorandum to be laid before each House of Parliament.

Explanation.—In computing the period of ninety days referred to in this sub-section, any period during which Parliament or, as the case may be, either House of Parliament, is not in session shall be excluded.

CHAPTER III

MISCELLANEOUS

Salary,
allowances
of Lokpal,
etc.

17. The salaries, allowances and pensions payable to, or in respect of the Lokpal and a Special Lokpal shall be expenditure charged on the Consolidated Fund of India

Penalty
for dis-
closure or
publication
of informa-
tion in
respect of
complaints.

18. (1) No complaint made under this Act or any proceedings (whether by way of verification, inquiry or otherwise) in respect of such complaint or any information in respect of such complaint or proceedings (including any evidence furnished, collected or recorded in relation to such complaint or in the course of or for the purpose of such proceedings) shall be disclosed or published by any person.—(a) where such complaint has been referred to the Lokpal under section 11 at any time before the dismissal of such complaint under sub-section (1) of section 12 or if the Lokpal conducts an inquiry into such complaint under section 13, at any time before he closes the case under clause (a) of sub-section (1) of section 16 or as the case may be, before he makes a report in respect of the case under clause (b) of that sub-section;

(b) in any other case, before the competent authority concerned discloses or announces in the prescribed manner the findings in respect of the allegations made in such complaint:

Provided that nothing in the sub-section shall apply—

- (i) to any disclosure for the purposes of this Act; or
- (ii) to any disclosure or publication with respect to proceedings or any offence under this Act or any other law; or
- (iii) to any disclosure or publication for such other purposes as may be approved by the competent authority concerned.

(2) Whoever contravenes the provisions of sub-section (1) shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

(3) The provisions of this section shall have effect notwithstanding anything in any other section of this Act or in any other enactment.

Intentional
insult or
interpreta-
tion, or
bringing
into
disrepute
Lokpal.

19. (1) Whoever intentionally offers any insult, or causes any interruption, to the Lokpal while the Lokpal is making any verification or conducting any inquiry under this Act, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

(2) Whoever, by words spoken or intended to be read, makes or publishes any statement, or does any other act, which is calculated to bring the Lokpal into disrepute, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

(3) The provisions of sub-section (2) of section 199 of the Code of Criminal Procedure, 1973 shall apply in relation to an offence under sub-section (1) or sub-section (2) as they apply in relation to an offence referred to in

sub-section (2) of the said section 199 subject to the modification that no complaint in respect of such offence shall be made by the Public Prosecutor except with the previous sanction of the Lokpal.

20. (1) If, at any stage of a proceeding before the Lokpal it appears to the Lokpal that any person appearing in such proceeding had knowingly or wilfully given false evidence or had fabricated false evidence with the intention that such evidence should be used in such proceeding the Lokpal may, if satisfied that it is necessary and expedient in the interests of justice that the person should be tried summarily for giving or fabricating as the case may be, false evidence, take cognizance of the offence and may after giving the offender a reasonable opportunity of showing cause why he should not be punished for such offence, try such offender summarily, so far as may be, in accordance with the procedure prescribed for summary trials under the Code of Criminal Procedure, 1973 and sentence him to imprisonment for a term which may extend to three months or to fine which may extend to five hundred rupees, or to both.

Power of Lokpal to try certain offences summarily.

46 of 1860.

(2) When any such offence as is described in section 175, section 178, section 179 or section 180 of the Indian Penal Code is committed in the view or presence of the Lokpal, the Lokpal may cause the offender to be detained in custody and may at any time on the same day take cognizance of the offence and after giving the offender a reasonable opportunity of showing cause why he should not be punished under this section, sentence the offender to simple imprisonment for a term which may extend to one month, or to fine which may extend to five hundred rupees, or to both.

(3) In every case tried under this section, the Lokpal shall record the facts constituting the offence with the statement (if any) made by the offender as well as the finding and the sentence.

2 of 1974.

(4) Any person convicted on a trial held under this section may appeal to the High Court and the provisions of the Chapter XXIX of the Code of Criminal Procedure, 1973 shall so far as may be, apply to appeals under this section and the High Court may alter or reverse the findings, or reduce or reverse the sentence appealed against.

Explanation.—For the purposes of this sub-section "High Court" means the High Court within the jurisdiction of which the person convicted ordinarily resides or carries on business or personally works for gain or the High Court within whose jurisdiction the order of conviction has been passed.

(5) The provisions of this section shall have effect notwithstanding anything contained in the Code of Criminal Procedure, 1973.

21. (1) Every person who wilfully or maliciously makes any complaint which he knows or has reason to believe to be false under this Act shall be punished with imprisonment for a term which may extend to one year and shall also be liable to fine which may extend to three thousand rupees.

Action in case of false complaint.

(2) No court, except a Court of Session shall take cognizance of an offence under sub-section (1).

(3) No such Court shall take cognizance of such offence except on a complaint in writing made by the Public Prosecutor at the direction of the Lokpal and the Court of Session may take cognizance of the offence on such complaint without the case being committed to it.

(4) The Court of Session, on conviction of the persons making false complaint, may award, out of the amount of fine, to the public man against whom such false complaint has been made such amount of compensation as it thinks fit.

(5) The provisions of this section shall have effect notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1973.

2 of 1974.

Conferment of additional functions on Lokpal.

22. (1) The President may, by order in writing and subject to such conditions or limitations as may be specified in the order, require the Lokpal to inquire into any allegations of misconduct specified in the order, in respect of a public person and, notwithstanding anything contained in this Act, the Lokpal shall comply with such order.

(2) When the Lokpal is to make any inquiry under sub-section (1) the Lokpal shall exercise the same powers and discharge the same functions as he would in the case of any inquiry made on a complaint under this Act and the provisions of this Act shall apply accordingly.

Compensation or reward or both payable in certain cases to complainant.

23. If the Lokpal is satisfied—

- (a) that all or any of the allegations made in a complaint have or has been substantiated either wholly or partly; and
- (b) that having regard to the expenses incurred by the complainant in relation to the proceedings in respect of such complaint and all other relevant circumstances of the case the complainant deserves to be compensated or rewarded.

The Lokpal shall determine the amount which shall be paid to the complainant by way of such compensation or reward and the Central Government shall pay the amount or amounts so determined to the complainant.

Protection.

24. (1) No suit, prosecution, or other legal proceeding, shall lie against the Lokpal, or against any officer, employee, agency or person referred to in section 8, in respect of anything which is in good faith done, or intended to be done, under this Act.

(2) Save as otherwise provided in Section 21, no proceedings or decision of the Lokpal shall be liable to be challenged, reviewed, quashed, or called in question, in any court.

Power to delegate.

25. The Lokpal may, by general or special order in writing, and subject to such conditions and limitations as may be specified therein direct that any powers conferred or duties imposed on him by or under this Act (except the powers under the proviso to sub-section (3) of section 10, the power to dismiss a complaint under sub-section (1) of section 12, the powers to close cases and make reports under section 16 and the powers under section 20 may also be exercised or discharged by such of the officers, employees or agencies referred to in sub-section (1) or sub-section (2) of section 8, as may be specified in the order.

26. (1) The President may, by notification in the official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for—

(a) the authorities required to be prescribed under sub-section (2) of section 2;

(b) the officers and employees who may be appointed under sub-section (1) of section 8;

(c) the terms and conditions of service of the officers, employees, agencies and persons referred to in sub-section (3) of section 8;

(d) the form in which complaints may be made under section 11;

(e) the matters referred to in sub-clause (vi) of clause (b) of sub-section (1) of section 14;

(f) any other matter which is to be or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

27. Nothing contained in this Act shall be construed as affecting the constitution of, or the continuance of functioning or exercise of powers by, any Commission of Inquiry appointed under the Commission of Enquiry Act, 1952, before the commencement of this Act and no complaint shall be made under this Act in respect of any matter referred for inquiry to such Commission before such commencement.

Saving

6 of 1952.

28. In Section 3 of the Commissions of Inquiry Act, 1952, in sub-section (1) for the words, "The appropriate Government may" the words, brackets and figures "Subject to the provisions of sub-section (2) of section 9 of the Lokpal Act, 1982, the appropriate Government may" shall be substituted.

Consequential Amendment of Act 60 of 1952.

THE SCHEDULE

[See Section 3(2)]

I, having been appointed Lokpal do swear in the name of God, solemnly affirm that I will bear true faith and alligiance to the Constitution of India as by law established, that I will duly and faithfully and to the best of my ability, knowledge and judgement perform the duties of my office without fear or favour, affection or ill-will.

STATEMENT OF OBJECTS AND REASONS

Most of the civilised nations are experimenting with the institution of a public Ombudsman. The experiment has proved a great success in eradicating corruption in high places, a curse afflicting most of the developing nations. Attempts to instal one in India under the name of Lokpal have so far proved abortive. The Bill is a fresh attempt. The provisions of the Bill are substantially similar to Bill No. 88 of 1977 which did not get beyond the Committee stage.

NEW DELHI;

RAM JETHMALANI

February 16, 1982.

**PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE
CONSTITUTION OF INDIA**

[Copy of letter No. 3/2/82-AVD.IV, dated 8 April 1982 from Giani Zail Singh, Minister of Home Affairs to the Secretary, Lok Sabha.]

The President, having been informed of the subject matter of the Lokpal Bill, 1982, recommends under article 117(1) of the Constitution for introduction of the Bill and under article 117(3) of the Constitution for consideration of the Bill in the Lok Sabha.

FINANCIAL MEMORANDUM

Clause 3(1) and clause 7(1) of the Bill provide respectively for the appointment of the Lokpal and Special Lokpal or Special Lokpals. Clause 5(3) provides for the salary payable to Lokpal. Clause 5(4) lays down that the Lokpal shall be entitled without payment of rent to the use of an official residence. Clause 5(5) of the Bill envisages that the allowances and pension payable to, and other conditions of service of, the Lokpal shall be such as may be prescribed by rules having regard to the allowances and pension payable to, and other conditions of service of, the Chief Justice of India. By virtue of clause 7(3), the Provisions of clause 5(3), (4) and (5) apply in relation to the Special Lokpals also.

2. Sub-clause (1) of clause 8 provides that the Lokpal shall have the Secretary and such other officers and employees as may be prescribed by rules to assist him in the discharge of his functions. Sub-clause (2) of clause 8 empowers the Lokpal to secure, for the purposes of dealing with any complaints or any classes of complaints, the services of any officer or employee or investigating agency of the Central Government or a State Government or the services of any other person or agency. Sub-clause (3) of clause 8 provides that the terms and conditions of service of the officers and employees of the Lokpal and of the officers, employees, agencies and persons referred to in sub-clause (2) of that clause, shall be such as may be prescribed by rules in consultation with the Lokpal. Clause 23 provides for payment of such compensation or reward by the Central Government to the complaint as the Lokpal may determine in certain cases.

3. It is not possible to visualise at this stage whether any need will arise for the appointment of one or more Special Lokpals. Further, the salaries and other conditions of service of the staff of the Lokpal are to be prescribed by rules after consultation with the Lokpal. It is also not possible to visualise at this stage the amount of compensation or reward which shall be payable every year to the complaints under clause 23. It is, therefore, not possible to give precise details of the expenditure involved. It is, however, estimated that the Bill, when enacted, will involve a non-recurring expenditure of rupees two lacs and a recurring expenditure of rupees twenty lacs a year. In case it becomes necessary to construct a building to house the establishment of the Lokpal, additional expenditure, of a non-recurring nature, of the order of rupees twenty-five lacs will also be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 26 of the Bill empowers the Central Government to make rules for the purpose of carrying into effect the provisions of the proposed enactment. The various matters in relation to which such rules may be made have been enumerated in detail under various items of sub-clause (2) of that clause and relate mainly to prescribing of competent authorities in respect of public persons other than the Prime Minister and other members of the Council of Ministers for the Union, the conditions of service of the staff and officers who shall constitute the secretariat for the Lokpal (in consultation with the Lokpal), the form in which complaints may be made. These are matters of detail, necessary for the effective administration of the provisions of the Bill and it is difficult to provide for all the situations in the Bill itself. The delegation of legislative powers is, therefore, of a normal character.

BILL NO. 72 OF 1982

A Bill to provide for the promotion of a casteless and religionless society in India.

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Promotion of a Casteless and Religionless Society Act, 1982.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. No educational institution shall include in the forms maintained by it for the purpose of admissions and examinations any columns which require the students to state their caste or religion.

Short
title,
extent
and
com-
mence-
ment.

Educa-
tional
institu-
tions not
to re-
quire stu-
dents to
state
their
caste or
religion.

Public
institu-
tions not
to re-
quire
persons
to state
their
caste or
religion.

3. No public body, which maintains any form for the use of public, shall include in it columns which require any person to state his/her caste or religion:

Provided that one's caste or religion shall continue to be stated in any document as is required under the provisions of any existing law.

Power to
make
rules

4. The Central Government shall make rules to carry out the purposes of this Act..

STATEMENT OF OBJECTS AND REASONS

The society in our country is torn by divisive factors like caste, religion and language. Communal and caste feuds have been taking place from time to time in different parts of the country. All these factors are standing in the way of national integration

The goal of national integration can be best achieved if a casteless and classless society is established. One step in this direction is to remove the columns which require a person to indicate his/her caste or religion in the forms maintained by educational institutions and various public bodies like employment exchanges, public service commissions etc. In the course of years exclusion of such columns relating to caste and religion shall make caste and religion factors of no consequence in public life.

Hence this Bill.

NEW DELHI;
April 20, 1982.

VIDYA CHENNUPATI.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill provides that the Central Government shall make rules for carrying out the purposes of the Act. These rules will relate to matters of detail only. The delegation of legislative power is of a normal character.

BILL No. 70 OF 1982

A Bill further to amend the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 1982.

Short
title,
extent
and
com-
mence-
ment.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2 of 1974

2. In section 378 of the Code of Criminal Procedure, 1973,—

(i) for sub-section (1), the following sub-sections shall be substituted, namely:—

Amend-
ment of
section
378.

“(1) The State Government may, in any case, direct the Public Prosecutor to present an appeal against the order of acquittal.

Appeal in
case of
“11

(1A) If the State Government fails or refuses to present an appeal the complainant shall have the independent right to present an appeal against the order of acquittal,—

(a) to the Court of Sessions, in case of any person acquitted on a trial held by a Metropolitan Magistrate or Assistant Sessions Judge or Magistrate of the first class or of the second class;

(b) to the High Court, in case of any person acquitted on a trial by Sessions Judge or an Additional Sessions Judge or an order of acquittal passed by the Court of Sessions in revision or on a trial held by any Court other than a High Court; and

(c) to the Supreme Court, in case of any person acquitted on a trial by High Court in its extraordinary original jurisdiction.”;

(ii) in sub-section (2), the words “subject to the provision of sub-section (3), to the High Court from the order of acquittal.” shall be omitted;

(iii) sub-section (3) shall be omitted;

(iv) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) If an order of acquittal is passed in any case instituted upon a complaint, by a Metropolitan Magistrate or an Assistant Sessions Judge or a Magistrate of the first class or of the second class, the Sessions Judge on an application made to him by the complainant in this behalf if grants special leave to appeal against such order of acquittal, the complainant may present such an appeal to the High Court.”.

STATEMENT OF OBJECTS AND REASONS

The complainant and the accused persons have equal right of litigation before a criminal court. The accused person has easy right of appeal whereas in case of acquittal the procedure for appeal by the State and complainant is cumbersome resulting in denial of justice. If the State or the complainant is aggrieved by the order of acquittal they should have the right to approach the appellate court under the present set up so as the accused persons who sometimes manipulate their acquittal by using foul means can be hauled up for the offence. Besides this, the arbitrariness and favouritism of the presiding officers, if any, may also be rectified. In view of the increase in crime in the present day society the procedure for appeal against the order of acquittal needs to be simplified.

NEW DELHI;
April 23, 1982.

RAMNATH DUBEY

AVTAR SINGH RIKHY,
Secretary.

